

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

DOUGLAS E. PENNINGTON.

Appellant

DOCKET NUMBER WD77087

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: June 30, 2015

Appeal From:

Circuit Court of Platte County, MO
The Honorable Owens Lee Hull, Jr., Judge

Appellate Judges:

Division One
James Edward Welsh, P.J., Thomas H. Newton, and Karen King Mitchell, JJ.

Attorneys:

Susan Hogan, Kansas City, MO

Counsel for Appellant

Attorneys:

Robert Bartholomew, Jr., Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v.
DOUGLAS E. PENNINGTON, Appellant**

WD77087

Platte County

Before Division One Judges: James Edward Welsh, P.J., Thomas H. Newton, and Karen King Mitchell, JJ.

Douglas Pennington appeals the circuit court's judgment convicting him of statutory sodomy in the first degree and attempted statutory sodomy following a jury trial. In his sole point on appeal, Pennington contends that the circuit court plainly erred when it overruled his motion to exclude testimony as to the credibility of other witnesses and in refusing to order the State to redact the video recording of Pennington's interrogation to remove a detective's comments about the credibility and intelligence of the complaining witness.

AFFIRMED.

Division One holds:

Given that the jury was instructed to use the police detective's comments regarding the credibility of S.M. solely "for the purpose of giving context and meaning to [Pennington's] responses" and given that the detective did not offer any opinion testimony about the accuracy of S.M.'s statements at trial, the admission of the detective's statements did not have an outcome determinative effect on the verdict and was not plain error. Moreover, because evidence of Pennington's guilt most certainly was strong, any comments by the detective that could have been construed by the jury as vouching for S.M.'s credibility can be disregarded as not prejudicial.

Opinion by: James Edward Welsh, Judge

June 30, 2015

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